

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/14/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BROOKE BOWES, individually and on behalf	:	
of all others similarly situated,	:	
	:	
Plaintiff,	:	
	:	18-CV-9004 (VEC)
-against-	:	
	:	<u>ORDER</u>
	:	
AMERICAN EAGLE OUTFITTERS, INC., a	:	
Delaware corporation; and	:	
AEO MANAGEMENT CO., a Delaware	:	
corporation	:	
Defendants.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS Plaintiff seeks to certify a class of individuals who received text messages sent by Defendants, or third parties acting on Defendants' behalf, in violation of the TCPA but who were not included in the settlement class in a prior action, *Melito v. American Eagle Outfitters, Inc.*, 14-CV-2440;

WHEREAS Defendants have filed a motion to strike Plaintiff's class allegations or, in the alternative, to deny class certification, and a motion to dismiss Plaintiff's second, third, and fourth counts for failure to state a claim (Dkt. 62);

WHEREAS Defendants' motions are fully briefed; and

WHEREAS this case was stayed pending a final resolution in *Melito*, and discovery has remained stayed pending this Court's decision on Defendants' pending motions;

IT IS HEREBY ORDERED that, not later than **January 28, 2021**, Defendants must show cause why the Court should not bifurcate individual and class discovery. Pursuant to this proposal, the Court would permit the parties to proceed to discovery on whichever of Plaintiff's individual claims survive Defendants' motion to dismiss and delay discovery on Plaintiff's class

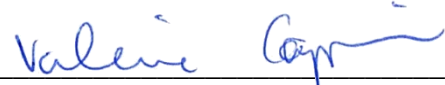
allegations until after the parties have completed individual discovery and the Court has ruled on any motion for summary judgment, should either party choose to bring such a motion at the close of individual discovery.

IT IS FURTHER ORDERED that Plaintiff must respond to Defendants and raise any additional arguments in response to the Court's proposal not later than **February 4, 2021**.

IT IS FURTHER ORDERED that both Defendants and Plaintiff must submit a response not to exceed 10 double-spaced pages.

SO ORDERED.

Date: January 14, 2021
New York, New York



VALERIE CAPRONI
United States District Judge